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INTERNATIONAL PRELIMINARY EXAMINING AUTHORITYTo: RECKITT BENCKISER  
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TO

CASE NUMBER

1111P3WO

PCT

WRITTEN OPINION

(PCT Rule 66)

Date of mailing  
(day/month/year)

14.05.2004

Applicant's or agent's file reference  
11111P3WO/RH

REPLY DUE

within 3 month(s)  
from the above date of mailingInternational application No.  
PCT/GB 03/03743International filing date (day/month/year)  
01.09.2003Priority date (day/month/year)  
10.09.2002International Patent Classification (IPC) or both national classification and IPC  
C11D17/04, C11D17/04Applicant  
RECKITT BENCKISER INC et al.

- This written opinion is the **first** drawn up by this International Preliminary Examining Authority.
- This opinion contains indications relating to the following items:
  - ☒ Basis of the opinion
  - ☐ Priority
  - ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
  - ☐ Lack of unity of invention
  - ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
  - ☐ Certain documents cited
  - ☐ Certain defects in the international application
  - ☐ Certain observations on the international application
- The applicant is hereby **invited to reply** to this opinion.
 

**When?** See the time limit indicated above. The applicant may, before the expiration of that time limit, request this Authority to grant an extension, see Rule 66.2(d).

**How?** By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

**Also:** For an additional opportunity to submit amendments, see Rule 66.4.  
For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis.  
For an informal communication with the examiner, see Rule 66.6.

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.
- The final date by which the international preliminary examination report must be established according to Rule 69.2 is: 10.01.2005

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**I. Basis of the opinion**

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed"*):

**Description, Pages**

1-19 as originally filed

**Claims, Numbers**

1-26 as originally filed

27, 28 received on 05.04.2004 with letter of 31.03.2004

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
  - ☐ the language of publication of the international application (under Rule 48.3(b)).
  - ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).
3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:
- ☐ contained in the international application in written form.
  - ☐ filed together with the international application in computer readable form.
  - ☐ furnished subsequently to this Authority in written form.
  - ☐ furnished subsequently to this Authority in computer readable form.
  - ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
  - ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.
4. The amendments have resulted in the cancellation of:
- ☐ the description, pages:
  - ☐ the claims, Nos.:
  - ☐ the drawings, sheets:
5. ☐ This opinion has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).
6. Additional observations, if necessary:

**V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

**1. Statement**

Novelty (N)	Claims	1,2,7,9-15,20,22-26: no
Inventive step (IS)	Claims	1-28: no
Industrial applicability (IA)	Claims	1-28: yes

**2. Citations and explanations****see separate sheet**

**Item V:**

**Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement.**

- 1) The newly filed amended claims 27 and 28 have been checked for compliance with the requirement of Article 34(2)(b) PCT, and found to be acceptable, with the proviso that in new claim 27, the statement "wherein components (a) and/or (b) **optionally** are mixed not more ..." should be amended in the following way "wherein components (a) and (b) are mixed not more ..." (deletion of the wording "or" and "optionally"). Indeed, in order to obtain the resulting mixture, both components (a) and (b) have to be mixed.
- 2) The following documents D1-D5 from the international search report are mentioned for the first time in this written opinion. The numbering will be adhered to in the rest of the procedure:

D1 = WO-A-00/12672

D2 = WO-A-98/33880

D3 = WO-A-01/00765

D4 = US-A-5,252,312

D5 = US-A-4,687,663

- 3) The subject-matter of the present independent claims 1 and 14 does not comply with the requirement of Article 33(2) PCT, because the subject-matter of these claims cannot be regarded as being novel, the reasons being as follows:

Document D1 (see relevant passages in the international search report) discloses a composition having utility as a hard surface cleaner comprising two liquids which are separately maintained prior to forming an admixture during delivery to a surface to be treated, as well as a method of cleaning using said composition. The first aqueous liquid comprises a hypochlorite (which reads to the antimicrobial/germicidal agent), a pH modifier (i.e. sodium hydroxide or sodium carbonate), an anionic surfactant (i.e. a fatty acid soap) and/or a nonionic surfactant (i.e. an amine oxide), and the second aqueous liquid comprises hydrogen peroxide. A container maintaining the two aqueous liquids separately until delivery and providing for such delivery is also disclosed. The container includes one compartment for the hypochlorite-containing liquid and another compartment for the peroxide-containing liquid.

Document D2 (see relevant passages in the international search report) pertains to a liquid cleaner comprising parts A and B which are physically separated until use as well as a method of cleaning a surface. Part A contains a peroxide, namely a hydrogen peroxide, and part B comprises a compound selected from the group consisting of sodium hypochlorite (reading to the antimicrobial/germicidal agent), sodium hydroxide, or sodium bicarbonate (see examples I-III).

Document D3 (see relevant passages in the international search report) relates to an aqueous liquid detergent composition prepared in a dual-compartment container, as well as a method of using such a composition, comprising in the first compartment an anionic surfactant (Na-C25AE1.80S, C11.8 HLAS or AES paste), a nonionic surfactant (Neodol 23-9 or amine oxide), and a pH modifier (NaOH and borax), and in the second compartment, hydrogen peroxide (see examples 17-19).

Document D4 (see relevant passages in the international search report) teaches a packaged effervescent mouthwash composition comprising in two different compartments of a container a first liquid component including hydrogen peroxide, and a second liquid component including sodium bicarbonate and sodium lauryl sulphate.

Document D5 (see relevant passages in the international search report) exemplifies a method for cleaning teeth including extruding a first semi-solid component including hydrogen peroxide as an active ingredient, and extruding a second semi-solid component comprising sodium bicarbonate as an active ingredient, the first and second components being suitable for oral use. The first component and the second component are placed in contact with each other on a toothbrush. A container for the storage and delivery of such a preparation is also described.

- 4) The additional features of the dependent claims 2, 7, 9-13, 15, 20 and 22-26 are also disclosed in at least one of the documents D1-D5. Therefore, the subject-matter of these claims is not regarded as being novel in the sense of Article 33(2) PCT.
- 5) The present dependent claims 3-6, 8, 16-19, 21 and 27, as well as the independent claim 28 appear to be novel over the cited prior art. However, the subject-matter of these claims resides in the use of well known compounds having germicidal or antimicrobial properties. Indeed, cationic surfactants, essential oils, amine oxide, organic solvents, and the components listed in the claims 8 or 21 are known for their germicidal or antimicrobial properties (see EP-A-0 842 604 and EP-A-1 001 012), and are thus merely one of several straightforward possibilities from which the person skilled in the art would select, without the exercise of inventive skill, in order to solve the problem. Therefore, the subject-matter of these claims is not regarded as

involving an inventive step in the sense of Article 33(3) PCT.

- 6) The present claims 1-28 meet the requirement under Article 33(4) PCT, because the present invention is industrially applicable in the field of detergents.

**Additional remarks**

- 7) It is clear from the description on page 1 that it is essential to the definition of the invention that the resulting composition that is applied to the surface in need of treatment should have a pH greater than 7.00. This is due to the fact that hydrogen peroxide is stable in acidic environments ( $\text{pH} < 7$ ) but active as a bleaching agent in alkaline environments ( $\text{pH} > 7$ ).

Since the independent claims 1 and 14 do not contain this feature, they do not meet the requirement following from Article 6 PCT taken in combination with Rule 6.3(b) PCT that any independent claim must contain all the technical features essential to the definition of the invention.

- 8) Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the documents D1-D3 and D5 are not mentioned in the description, nor are these documents identified therein.
- 9) The hereinafter mentioned features of the present claims 11, 13, 24 and 26 are not referred to in the description. These claims are therefore not supported by the description as required by Article 6 PCT.

Claims 11 and 24: a mixture of anionic and nonionic surfactants has not been mentioned in the instant specification.

Claims 13 and 26: there is no indication in the present application that the pH of component (b) should be higher than the pH of component (a).

- 10) The present claims 16 to 26 are dependent to claim 14 which recites a dispenser. Thus, said claims 16 to 26 should also relate to a dispenser, and not to a process as currently claimed.
- 11) The Applicant is requested to file amendments by way of replacement pages in the manner stipulated by Rule 66.8(a) PCT. In particular, fair copies of the amendments should be filed preferably in triplicate.

In order to facilitate the examination of the conformity of the amended application with the requirements of Article 34(2)(b) PCT, the Applicant is requested to clearly identify the amendments carried out, no matter whether they concern amendments by addition, replacement or deletion, and to indicate the passages of the application as filed on which these amendments are based (see also Rule 66.8(a) PCT).

If the Applicant regards it as appropriate, these indications could be submitted in handwritten form on a copy of the relevant parts of the application as filed.

- 12) Moreover, the Applicant's attention is drawn to the fact that, as a consequence of Rule 66.8(a) PCT, the examiner is not permitted to carry out any amendments under the PCT procedure, however minor these may be.